IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9597 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL
and
Hon'ble MR.JUSTICE RAVI R. TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SAAHIL ORGANICS

Versus

UNION OF INDIA

Appearance:

MR PARESH M DAVE for Petitioners
MR AKSHAY H MEHTA for Respondent No. 1
MR MUKESH R SHAH for Respondent No. 2, 3

CORAM : MR.JUSTICE B.C.PATEL
and
MR.JUSTICE RAVI R. TRIPATHI

Date of decision: 30/11/2000

ORAL JUDGEMENT

(Per : MR.JUSTICE B.C.PATEL)

1. Rule. Mr. M.R. Shah, learned Advocate appears and waives service of Rule on behalf of respondents.

2. This petition is preferred for issuance of writ of certiorari or any other appropriate writ or direction quashing and setting aside the Stay Order No. 600 of 1999 dated 22nd November 1999 passed by the respondent no.2, viz. Commissioner of Central Excise (Appeals), Ahmedabad. By raising various contentions, he has also prayed to restrain the respondents, their servants and agents from taking any coercive measures of recovery against the petitioner in pursuance of the order.

3. It appears that the applicants were directed to deposit the amount as mentioned therein as a pre-deposit under section-35F of the Central Excise Act, 1944, by 10/12/1999 and furnish the proof of deposit by 17/12/1999.

4. The grievance of the petitioner is that similarly situated persons have been treated differently by different orders. He has given an illustration of Hindustan Gum & Chemicals Ltd. It is pointed out that the goods of the petitioner and the goods of Hindustan Gum & Chemicals Ltd. are the same. So far as Hindustan Gum and Chemicals Ltd. is concerned, the decision is rendered in his favour and now, appeal has been prefered by the Department. It is also suggested by the Advocates for the parties that the appeals which are pending, if are heard together, there may not be conflicting decisions. The learned counsels appearing in the matter for both the sides have requested us to direct the Appellate Authorities to hear both the appeals together with a view to avoid conflicting findings and accordingly, we direct the Appellate Authorities to hear the appeals together. It goes without saying that in view of this, there will not be insistence for pre-deposit and appeals shall be disposed of on merits within a period of 4 weeks from today. It also goes without saying that the appeals will be heard by the Commissioner (Appeals) Vadodara, as the matter has been transferred to that forum. In the result, the Special Civil Application is allowed and Rule is made absolute to the above extent accordingly. No order as to costs.

(B.C. Patel, J.)

(Ravi R. Tripathi, J.)

kamlesh*